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Art Theft Archive *Newsletter*

Cultural Property Pros and Cons

Americans are again being given an opportunity to take action on the Unesco Convention concerning cultural property, and it looks as if whatever the outcome, there will be problems ahead. This Convention makes effective the idealistic premise that art importing countries should cooperate with source countries in attempting to curb art theft, looting of archaeologiacl sites, and exploitative commercial gathering of ethnographic material. However, between this premise and the promulgation of legislation, lies some difficult terrain.

The very conception of cultural heritage is foreign to the United States, which is the only major country in the world that has no statute controlling art export. The foreignness of the conception is compounded by the fact that adherence to this Convention requires the U.S. to apply foreign laws, with which American citizens are not necessarily familiar or in agreement.

These foreign laws—whether they relate to cultural property or to theft—are extremely divergent. In some countries, such as Mexico, they effectively nationalize all antiquities, even undiscovered ones—and make any exportation of antiquities a theft. In others, such as Italy, prosecution of theft and receivership is the opposite of our own system. Bona fide purchasers of stolen objects take precedence over former owners, and dealers are controlled by strict statute. In other countries, such as Canada, the law has recently changed, a fact that most Americans may be justifiably ignorant of. All three of these countries are co-parties to the Convention, and would therefore be eligible for the establishment of import-export treaties with the U.S. if our law passes.

There is concern that the enactment of legislation will activate an enormous bureaucratic machinery. The art world questions the ability of customs officers effectively to screen antiquities imports, and fears the law will lead to blanket seizure of imported art materials, resulting in possible damage to objects, unnecessary paperwork, and costly delays. Unfortunately, this precedent has been one of the by-products of the Endangered Species Act, which affects a similar kind of control on importation of animal specimens.

Finally, collectors and dealers fear that, once in existence, the cultural property law will be given application beyond its intended scope. Unfortunately, there is no way to guarantee that this will not be the case, beyond the inclusion of very limited definitions, which are indeed part of our present bill.

On the other side of the ledger are the increasingly passionate demands from third world countries that looting be stopped, and increasing evidence of efforts within these countries to effect domestic controls. The Endangered Species Act is, in this context, a source of proof that control of the commercial market can help to curb illicit and abusive exploitation.

Also in favor of the bill is the effect that it would have in facilitating the return of stolen art. As the theft rate increases, this is a more pressing concern, and represents a real interest for U.S. institutions.

The present bill is the product of many hours of debate and substantial compromise from the original precepts of the Unesco Convention. It attempts to limit the domestic interpretation of the Convention to objects which are greatly endangered, or of overwhelming importance to the country of origin. This is the only form of antiquities market control that would be acceptable to domestic dealers.

In some areas, the law might lead to a more open market—particularly where Mexican antiquities are concerned, for example. Since the important McClain decision of 1977 (see back page), all trade in antiquities from Mexico is impossible in the United States. If we participated in the Convention, it might be possible to designate a more selected group.

We believe the proposed legislation, or some alternative, to be of such importance to the whole art community that we are providing, below, an outline of the present bill.

Whether in favor or opposed to antiquities market control, we hope the art community will take the time to familiarize itself with the proposed law and make its views known to our lawmakers.

B. B.

UNESCO Convention Legislation Reintroduced

The multi-lateral treaty, the Unesco *Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Cultural Property* attempts to address the major problem of looted artifacts from Third World countries. The Convention takes cognizance of the fact that many of the Third World countries that are rich in cultural patrimony are financially unable to guard their treasures.

The United States Senate has voted to become a party to the Unesco Convention. The acceptance must be implemented by individual legislation.

A bill to implement the Convention was introduced in the House of Representatives this month (HR 3403). It makes way for bilateral and multilateral treaties which would prohibit the importation of certain "endangered" cultural property, for a limited period during which the country of origin might presumably take steps to safeguard this property.

This version of the legislation is identical to last year's bill, which passed the House of Representatives but died in the Senate. The importation of an artifact comes under the aegis of the Bill if it satisfies one of several conditions:

1. *Application of a Co-Party for Aid in Protecting its Patrimony*:
A co-party of the Convention must apply to the President of the United States for aid in protecting its cultural patrimony. The

President may then enter into a five-year bi-lateral or multi-lateral treaty, which may be extended for additional lengths of time, to prohibit the importation of *that part* of the cultural heritage which is endangered by pillage. The treaties will not cover all cultural property, but only the specific objects which are viewed as endangered by pillage.

The President may also establish an emergency ban on the importation of *newly discovered* archaeological material. The maximum duration of an emergency ban is two years.

The United States will enter into an agreement only if it is found that the pillage of archaeological or ethnological artifacts threatens the cultural patrimony of the State, and that the State has taken measures to protect its own patrimony.

2. *Limitations*:

To be eligible for this form of protection:
archaeological artifacts must be of cultural significance, at least 500 years old, and discovered as a result of excavation (scientific, clandestine, or accidental) or exploration on land or under water;
ethnological objects must be the product of a tribal society at least 50 years old, and important to the cultural heritage of a people because of their distinct qualities, rarity, or contribution to the knowledge of that people.

Emergency import restrictions can be established for material that is newly discovered and of importance to the understanding of the history of mankind, which comes from a site of great cultural significance or is a part of the archaeological record of the remains of a particular civilization; and is in jeopardy from pillage, dismantling, or fragmentation.

3. *Stolen Cultural Property*

Any property which, subsequent to the passage of the act, is stolen from the inventory of a museum or a religious or secular public monument in a co-signing State willbe seized and returned according to the provisions of the Bill.

METHODS OF IMPLEMENTING THE BILL

1. *Creation of Classified Lists*

After the President has entered into agreement with a State Party, a list of the items covered, either by type or by some other classification, will be created. This list must be precise enough to assure that the restrictions aren't applied in an arbitrary fashion, and that interested parties have fair notice of which items are covered.

2. *Documentation Required for Import*

Items on the classified list can be imported permanently into the United States with two types of documentation:
a. Certification by the co-party that the item was not exported in violation of the State's law; or
b. Evidence that the material was exported from the State of origin at least 10 years prior to the date of importation into the United States, that, during this period of time, no U.S. citizen had a direct or an indirect interest in the work, and that the State Party had notice through publication, exhibitions, and the like, that the item had left the country.

3. *Museums' Immunity from Application of the Law*

a. Articles that are temporarily imported for exhibitions are immune from seizure under "An Act to Render Immune from Seizure Under Judicial Process Certain Objects of Cultural Significance Imported into the United States for Temporary Display and Exhibition" (22 U.S.C. 2459).
b. Articles are immune that have been within United States institutions for 10 consecutive years and have either been exhibited for 5 years or published so that the State Party has adequate notice of the location of the work.

4. *Procedures*

a. Any article on the classified list which is not property documented will be held by Customs officials for 90 days while the consignee collects documentation for the work.
b. If the consignee cannot produce adequate documentation, and the article is of archaeological or ethnological significance, and is controlled by treaty, the article will be offered to be returned to the co-party if the co-party will bear the expenses of such return. If not returned to the co-party, the article will be forfeited and disposed of in accordance with customs law.
c. If the article has been stolen from a cultural institution, the co-party will have to reimburse the *bona fide* purchaser the amount which he paid, unless the United States establishes that a U.S. institution would not be required to make restitution in a

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similar situation. In addition to reimbursing the purchaser, the co-party will be required to bear the costs of returning the goods.

5. *Cultural Property Advisory Committee*

The President is to be assisted in the determination of the extent and nature of the emergencies by a Committee which will prepare reports and make recommendations. The Committee is comprised of representatives from the scholastic, museum, and archaeological worlds as well as art dealers and members of the public who are knowledgeable about the issues involved. Terms of appointment to the Committee will range from one to three years.

COMMENTARY ON THE BILL

In attempting to frame a solution to a problem where there are passionately held views on both sides, legislators must make compromises. When the compromises are too great, the problem is not solved and the impetus to resolve the issue is diminished, because an attempt has been enacted into legislation, however unworkable it might prove to be.

A cursory glance at this bill reveals several aspects that might prove to be troublesome. In last year's written commentary, Douglas Dillon, President of the Metropolitan Museum of Art, pointed out the necessity of a temporary certification for works of art that a museum is contemplating purchasing, so that the museum will have the opportunity to subject the work to a thorough examination before purchasing it. While this might be perceived as a less important issue, it is of concern to a group that is more likely to be injured than helped by this legislation.

Douglas Ewing of the American Association of Dealers in Ancient, Oriental, and Primitive Art, felt that the confiscation of art by Customs was too severe a measure, for no dealer would risk forfeiture of an article at the whim of a Customs officer. While there is some basis for this fear, the requirements for importation of artworks can be made sufficiently explicit that the importers would have notice whether their actions fall within the ambit of the law.

Some commentators are afraid of the mechanics of implementing the legislation. They argue that the State Department will use the treaty not as a means of protecting cultural patrimony, but as another counter in the game of diplomacy. Other commentators cavil that the President has, in effect, unlimited power, for he must merely consider the views of the Cultural Property Advisory Committee. He is required to explain to Congress why he has not chosen to implement a particular request; but if he chooses to make an agreement against a recommendation by the Committee, he is *not* required to explain his action.

The problems which have been pointed out by interested parties are real. It is easier to reflect on problems that might arise while drafting legislation than to attempt modification of existing laws. Thus, it might be wise to request model legislation from those groups who are so bitterly opposed to the bill as it stands.

This solution will not satisfy all parties, for not all of the parties concerned subscribe to the initial premise that the United States should abstain from trading in uncertified artifacts. However, a recognition of the problems in the legislation will make passage and enforcement of the bill less difficult.

Mary Dutton Boehm

Mary Dutton Boehm, a graduate of Mills College, California, and the University of San Diego School of Law, lives in New York City and has a lively interest in the legal problems of the art world.

First Report on the Canadian Cultural Property Export and Import Act

The Canadian Cultural Property Export and Import Act was enacted in September 1977. Under this law, a control list is established of specific works as well as categories of objects whose export from Canada requires an export permit. Canada may refuse an application for export and retain the object whenever the object is of outstanding significance.

The Act does not apply to cultural property less than 50 years old and made by a person who is still living.

In March 1978 Canada acceded to the Unesco *Convention on the Means of Prohibiting and Preventing the Illicit Export, Import, and Transfer of Cultural Property*. If a co-signing State requests the recovery of an object illegally imported to Canada, the Attorney General will institute the necessary legal proceedings for its return. Canadian courts will decide what compensation is to be paid to a *bona fide* purchaser by the reciprocating state.

The First Report on the Cultural Property Act has been published by the Secretary of State in Ottawa. It covers applications made between September 1977 and April 1978, and demonstrates how a country determined to keep cultural heritage of extreme importance within its territory can effect export control in a fair and orderly way.

Canada's proximity to the powerful U.S. market, which has long been an active consumer of Eskimo and Northwest Coast Indian artifacts, makes such a law almost obligatory in order to support the position of Canadian institutions. However, the law provides several fair alternatives for exporters when works are retained, as well as financial incentives for selling within the country. Gifts of cultural property to museums are tax-deductible; and in addition, the *sale* of cultural property to museums is free of capital gains tax, a considerable advantage to sellers. Furthermore, the Act sets up a fund to which museums can apply in order to obtain money to purchase an object whose export has been refused.

Between September 1977 and March 1978, 47 export permits were processed, of which four were refused. The four were all appealed to the 10-member Review Board, of which two members represent the public interest, four represent public collecting institutions, and four represent art dearlers.

As a result of the appeals:

Two Bella Bella Face Masks were retained—a *Tsonoqua* mask and a *Bird Effigy* mask. Both were acquired by the British Columbia Provincial Museum, at the declared market value.

An oil painting: *St Malo* by James Willson Morrice was refused an export permit. The permit was denied pending further examination of the work to determine whether it is important within the oeuvre of the artist.

A collection of manuscripts relating to trade between the merchants of New France, 1740–66 was denied permission for export. The appeal of this case had not been heard at the time of publication.

During the six-month period, 13 grants were made, totaling $687,000 for purchase of objects of cultural heritage by Canadian institutions.

Stolen Objects

The list of stolen works in this issue includes *Paintings* and *Sculpture*. The first 72 works are paintings stolen from a gallery in Melbourne, Australia, all of which are considered to be important Australian cultural heritage.

An alphabetical index follows the list. The entries in the list are numbered consecutively, for easy reference to the illustrations and index.

The description of each stolen work is followed by the Art Theft Archive catalogue number, and the date and place of theft. Names of owners have been withheld. Anyone wishing further information on any object in this list, or anyone who suspects that he has come in contact with an object on the list, should contact the Art Theft Archive. A star before the catalogue number (☆) means that a photograph of the stolen work is available at the Art Theft Archive.

An effort has been made to document the objects on this list, and bibliographical references have been included whenever they have been found. When we have not been able to document the stolen works, we have accepted the owners' attributions. IFAR accepts no responsibility for these attributions.

Standard Abbreviations this issue:

Thomas = Daniel Thomas, *Outlines of Australian Art.* South Melbourne, Macmillan, 1973.

1. Bergner

3. Boyd

8. Condor

PAINTINGS

1. Yosl BERGNER (Australian, 20th c.). *Flowers,* 1942. Oil on canvas, 40.5 × 30.5 cm. Squat globular vase with flowers (anemones?) resting on a table. Paint is applied freely, in broad strokes.
☆79.19.74. Melbourne, Australia. 1 Jan 79

2. Arthur BOYD (Australian, b 1920). *Nebuchadnezzar.* Oil on canvas, 62 × 75 cm.
79.19.49. Melbourne, Australia. 1 Jan 79

3. ———. *Seascape, Eden.* Oil on canvas, 92.6 × 85 cm. Signed l/r. Impressionistic landscape with tall sparsely-foliated trees, sea in the background.
☆29.19.45. Melbourne, Australia. 1 Jan 79

4. ———. *The Preacher.* Oil on canvas, 104 × 91.5 cm. Interior scene. A preacher, seen from ¾ back view, faces three men. At his feet is a kneeling man holding a small animal. A woman is seated at a table in the background playing a violin.
☆79.19.71. Melbourne, Australia. 1 Jan 79

5. ———. *Wheatfield, Berwick.* 1948. Oil on canvas, 73.7 × 73.7 cm. Ref: Thomas. Landscape with a wheatfield in the left foreground with two birds flying above it. Trees, shrubs, and a small pond in centerground; fields with animals grazing in the background.
☆79.19.14. Melbourne, Australia. 1 Jan 79

6. John COBURN (Australian, 20th c.). *Jester.* Oil on canvas, 89 × 69 cm. Abstract figure overlain with heavy dark strokes in the style of Rouault.
☆79.19.69. Melbourne, Australia. 1 Jan 79

7. Morris COHEN (Australian). Landscape Scenes. Pastel. Varying sizes from 12 × 20 cm. to 20 × 27 cm.
79.19.77–90. Melbourne, Australia. 1 Jan 79

8. Charles CONDOR (Australian, 20th c.). *Bathers on the Beach.* Oil on canvas, 37 × 53.3 cm. Group of seven nude and semi-nude female bathers on a beach. A woman sits on a high parapet at right, holding a parasol.
☆79.19.51. Melbourne, Australia. 1 Jan 79

9. ———. *Spirit of the Dead.* Oil on canvas, 34 × 32 cm. Female nude with a diaphanous pink cloak standing in a landscape, arms raised behind her head. Animal skeletons and human skulls lie in the foreground. Tall slender trees against a blue sky in the background.
☆79.19. Melbourne, Australia. 1 Jan 79

10. Att to David DAVIES (Australian, 1862–1939). *Moonlight Scene.* Oil on canvas, 28.5 x 24 cm. Impressionistic landscape. Marshland with reeds in foreground. Strong horizon line with a house indicated at center. Moon rising to left of house.
☆79.19.60. Melbourne, Australia. 1 Jan 79

11. Robert DICKERSON (Australian, b 1924). *Boy Study.* Charcoal, 76 × 56 cm.
79.19.42. Melbourne, Australia. 1 Jan 79

12. William DOBELL (Australian, 1899–1970). *Not-Quite-Dead Landlord,* ca 1936. Gouache, 14.6 × 20.3 cm. Signed at center of lower border. Titled 1/1. Ref: Thomas. Barechested man with a beard, lying in bed, holding a glass in his right hand. Two wine bottles resting on a table beside him. ☆79.19.8. Melbourne, Australia. 1 Jan 79

13. ———. *Self Portrait,* ca 1965. Oil on hardboard, 17.8 × 17.8 cm. Signed l/r. Ref: Thomas. Seated bearded, white-haired man, wearing a russet robe over a white teeshirt, holding a baton. Right foot is resting on left knee; left thumb is placed on his heel. Figure is accented by fine white lines, especially around the face and head. ☆79.19.10. Melbourne, Australia. 1 Jan 79

14. ———. *Study of the Cypriot,* 1938. Oil on board, 25.4 × 25.4 cm. Signed u/l. Ref: Thomas. Study for a canvas now in Queensland Art Gallery. Half-length portrait of a dark-haired man slouched in a high-back armchair, wearing a red tie, light shirt. Rendered in short strokes of color. ☆79.19.9. Melbourne, Australia. 1 Jan 79

15. Robert DOWLING (Australian, 1827–86). *An Afternoon Siesta,* 1859. Oil on canvas, 50.8 × 35.6 cm. Monogrammed l/l. Ref: Thomas. Sleeping man seated on a bench. leaning against the wall, wearing a red cloth on his head, brown scarf, vest, knickers, and a white shirt. Sickle hanging to his left on the wall; ;coat hanging to his right. Metal stein and bread on table top. ☆79.19.3. Melbourne, Australia. 1 Jan 79

16. ———. *Portrait of Miss Annie Ware,* 1882. Oil on canvas, 91.4 × 71.1 cm. Ref: Thomas. Title, monogram, date, artist's name and address painted on back. ¾ length portrait of a woman, wearing a dark dress with lace cuffs. Lace shawl held in place by a rose. Right arm resting on a table, holding an open book. ☆79.19.4. Melbourne, Australia. 1 Jan 79

17. Russell DRYSDALE (Australian, b 1912). *Diver, Broome,* 1959. Oil on canvas, 76.2 × 61 cm. Signed l/r. Ref: Thomas. Waist-length portrait of a man, wearing a wide rimmed hat and open shirt. Both the top of his hat and the right side of his shirt are a bright yellow-green. His right hand is placed on his left arm. The figure is outlined in strong black line. Dabs of yellow-green highlight portions of face, neck, and chest, and there is a patch of blue at far right. ☆79.19.12. Melbourne, Australia. 1 Jan 79

18. ———. *Tree Form,* 1945. Oil on canvas, 61 × 76.2 cm. Signed l/r. Ref: Thomas. Gnarled tree trunk expressively colored in yellow, black, and rust, standing in a barren landscape of the same color schere. Broken fence sketched behind the tree; mountains in the background. ☆79.19.11. Melbourne, Australia. 1 Jan 79

10. Davies

14. Dobell

15. Dowling

16. Dowling

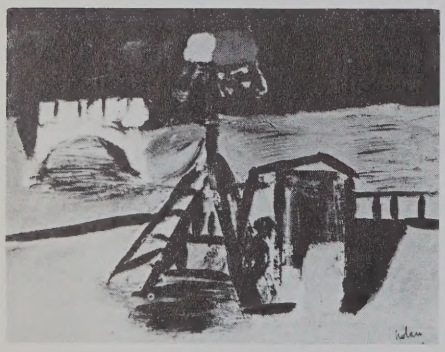
19. Fullwood

20. Glover

21. Hall

23. Herman

33. Nolan



19. A. H. FULLWOOD (Australian, b 1864). *New Norfolk Tasmania.* Watercolor, 78 × 114 cm. Signed and titled l/l. Rustic stone house in a landscape, picket fence on both sides. Low trees on the left and house in the background.
☆79.19.67. Melbourne, Australia. 1 Jan 79

20. John GLOVER (Australian, 1767–1849). *Angler Rapids on a Scottish River.* Watercolor, 78 × 114 cm. Romantic landscape with rapids flowing between two masses of rocks and trees. Two tall graceful trees stand in the left foreground. Small figure fishing in left centerground.
☆79.19.66. Melbourne, Australia. 1 Jan 79

21. Bernard HALL (Australian, 1858–1935). *Jessica Harcourt.* Oil on canvas, 63.5 × 51 cm. Signed u/r. Waist-length portrait of a woman, wearing a hat with a ribbon band, bulky coat with a flower pinned below the left collar. Her head is slightly tilted to the left, eyes downcast, looking right.
☆79.19.53. Melbourne, Australia. 1 Jan 79

22. P. HART (Australian). *Draughting Yards.* Oil on canvas, 46 × 51 cm.
79.19.55. Melbourne, Australia. 1 Jan 79

23. Sali HERMAN (Australian, b 1898). *The Warehouse.* Oil on canvas, 43 × 51 cm. Signed l/l. Angular view of an industrial building; tall chimney rises from the front corner. Three carts in the foreground. Suggestion of an urban landscape in the background.
☆79.19.55. Melbourne, Australia. 1 Jan 79

24. C. JENKINS (Australian). *Roses.* Oil on canvas, 51 × 61 cm.
79.19.52. Melbourne, Australia. 1 Jan 79

25. Marion JONES (Australian). *Red Kimono.* Pastel, 60 × 49 cm.
79.19.91. Melbourne, Australia. 1 Jan 79

26. Geo LAMBERT (Australian, 1873–1930). *Morris Lambert on Horseback.* Oil on canvas, 13 × 38 cm.
79.19.57. Melbourne, Australia. 1 Jan 79

27. Jeffrey MAKIN (Australian). *Centennial Park.* Oil on canvas, 76 × 91.5 cm.
79.19.41. Melbourne, Australia. 1 Jan 79

28. G. V. MANN (Australian, 19th c). *Autumn Scene.* Oil on canvas, 30.5 × 41 cm. Signed l/l. Landscape showing broadly-rendered masses of trees on the extreme right and left of a cottage.
☆79.19.47. Melbourne, Australia. 1 Jan 79

29. Louis McCUBBIN (Austalian). *Bush.* Oil on canvas, 49 × 59 cm.
79.19.47. Melbourne, Australia. 1 Jan 79

30. Jason MONET (Australian). *Woman's Head.* Crayon, 80 × 50 cm.
79.19.75. Melbourne, Australia. 1 Jan 79

31. Sidney NOLAN (Australian, b. 1917). *Animal*, ca 1945–53. Ripolin on hardboard. Abstract interpretation of a light brown bull, outlined in heavy black line. Head is in profile, with two horns of top. Body is rendered as a twisting form, against a pale blue and yellow background.
☆79.19.22. Melbourne, Australia. 1 Jan 79

32. ———. *Animal,* ca 1945–53. Ripolin on hardboard. Pink-horned animal lying on barren ground, with a spiky bush partially hiding its head. Four trees in the right background.
☆79.19.36. Melbourne, Australia. 1 Jan 79

33. ———. *Bell, St. Kilda,* ca 1945– 53. Ripolin on hardboard. Signed l/r. Ref: Thomas. Abstract expressionist view of a building, heavily outlined in black, against a rich yellow and blue background. Figure standing against inverted v-shaped portion of building. Arched architectural form in left background; yellow and red form on a vertical pole in top center.
☆79.19.13. Melbourne, Australia. 1 Jan 79

34. ———. *Bush*, ca 1945–53. Ripolin on hardboard, Signed l/r. Landscape with heavy foliage. Strong vertical tree mass on far left, bush growing from behind it.
79.19.18. Melbourne, Australia. 1 Jan 79

35. ———. *Carcass on Golden Brown*, ca 1945–53. Ripolin on hardboard.
79.19.40. Melbourne, Australia. 1 Jan 79

36. ———. *Carcass Pink Browns,* ca 1945–53. Ripolin on hardboard.
79.19.38. Melbourne, Australia. 1 Jan 79

37. ———. *Desert Storm,* ca 1945–53. Ripolin on hardboard. Signed l/r. Barren landscape with a settlement in the middleground, turbulent sky.
☆79.19.17. Melbourne, Australia. 1 Jan 79

38. ———. *Divers, Swimmers.* Oil on canvas. Figure standing on a diving board in the middle of a green lake. Group of figures standing at the edge of the land to the left. Trees surround the top and right side of the lake. Two figures facing one another in the lower left corner.
☆79.19.43. Melbourne, Australia. 1 Jan 79

39. ———. *Drought*, ca 1945–53. Ripolin on hardboard. Two buff colored, featureless horses arranged side by side against a flat green background, in strange, foreshortened, twisted positions.
☆79.19.34. Melbourne, Australia. 1 Jan 79

40. ———. *Faun*, ca 1945–53. Ripolin on hardboard. Full standing male nude, arms raised overhead, hands clasped, with a beard, cloven feet, and horns on top of his head.
☆79.19.33. Melbourne, Australia. 1 Jan 79

41. ———. *Fence*, ca 1945–53. Ripolin on hardboard. Wooden fence made of thick posts, seen from an extremely close view, with generalized landscape behind.
☆79.19.33. Melbourne, Australia. 1 Jan 79

42. ———. *Figure*, ca 1945–53. Ripolin or hardboard. Full, frontal, bearded male figure, wearing a black hat, jacket, and trousers, standing before a river running horizontally, on a parched ground. ☆79.19.35. Melbourne, Australia. 1 Jan 79

43. ———. *Figures*, ca 1945–53. Ripolin on hardboard. Group of figures against a flat landscape. A figure with raised arms dances in the center. Figures arranged in a group in front of him. Palm tree at right behind him. ☆79.19.29. Melbourne, Australia. 1 Jan 79

44. ———. *Garden*, ca 1945–53. Ripolin on hardboard. Abstract expressionistic view of a garden, in deep greens, yellows, with dabs of red and white. Recumbent animal in background; brown and white rectangular forms in upper left. ☆79.19.23. Melbourne, Australia. 1 Jan 79

45. ———. *Head*, ca 1945–53. Ripolin on hardboard. Three-quarter shoulder-length portrait of a bearded man, wearing a light brown hat, black jacket, and green shirt, against a flat blue-green background. ☆79.19.31. Melbourne, Australia. 1 Jan 79

46. ———. *Horse's Head*, ca 1945–53. Ripolin on hardboard. Horse's head in profile, arranged diagonally from the top left to the bottom right. Painted in a severe manner. ☆79.19.30. Melbourne, Australia. 1 Jan 79

47. ———. *Landscape,* ca 1945–53. Ripolin. Desert landscape painted in tones of brown and green. ☆79.19.32. Melbourne, Australia. 1 Jan 79

48. ———. *Marrows*, ca 1945–53. Ripolin. Arrangement of four gourd-like forms in green, brown, and buff tones. ☆79.19.39. Melbourne, Australia. 1 Jan 79

49. ———. *Mining Sheds,* ca 1945–53. Ripolin. 79.19.39. Melbourne, Australia. 1 Jan 79

50. ———. *Sculptress*, ca 1945–53. Ripolin. Waist-length figure in profile with arms raised, holding a block of stone. Another standing figure in left background. A column stands between the two figures. ☆79.19.20. Melbourne, Australia. 1 Jan 79

51. ———. *Simpson Desert*, ca 1945–53. Ripolin. Abstract painting: series of wavy horizontal bands against red-brown field. ☆79.19.21. Melbourne, Australia. 1 Jan 79

52. ———. *Verandah*, ca 1945–53. Ripolin. ☆79.19.25. Melbourne, Australia. 1 Jan 79

53. ———. *Wall*, ca 1945–53. Ripolin. 79.19.24. Melbourne, Australia. 1 Jan 79

54. John Ford PATTERSON (Australian, 1851–1912). *Landscape.* Oil on canvas, 24 × 32 cm. 79.19.68. Melbourne, Australia. 1 Jan 79

55. John PERCEVAL (Australian, b 1923). *Gum and Spring—Landscape.* Oil, 76 × 107 cm. 79.19.70. Melbourne, Australia. 1 Jan 79

57. Pugh

58. Roberts

56. ———. *Portrait of Mrs. Hebst,* 1948. Oil, 88 × 67 cm. Signed and dated l/r. Waist-length, frontal portrait of a young woman, head tilted slightly to the right. Right hand resting in front of her. Face and shoulders enclosed in a linear rectangle. ☆79.19.73. Melbourne, Australia. 1 Jan 79

57. Clifton PUGH (Australian, b 1924). *Spoonbills in Swamp.* 1961. Oil on canvas, 15.2 × 24.8 cm. Signed and dated l/r. ☆79.19.54. Melbourne, Australia. 1 Jan 79

58. Tom ROBERTS (Australian, 1856–1931). *Australian Landscape*, ca 1920. Oil on canvas, 30.5 × 40.6 cm. Signed l/l. Ref: Thomas. Landscape of hillside covered with small full trees, against a bright blue sky. Two tall trees in the left foreground. ☆79.19.6. Melbourne, Australia. 1 Jan 79

59. ———. *Moorish Doorway Grenada*, 1883. Oil on canvas, 48.3 × 33 cm. Entrance to a house with two steps. Key-hole shaped portal, with sculpted marble lintel. An oleander ☆79.19.5. Melbourne, Australia. 1 Jan 79

60. William ROWELL (Australian). *Home in the Hills.* Oil on canvas, 38.5 × 48.5 cm. 79.19.46. Melbourne, Australia. 1 Jan 79

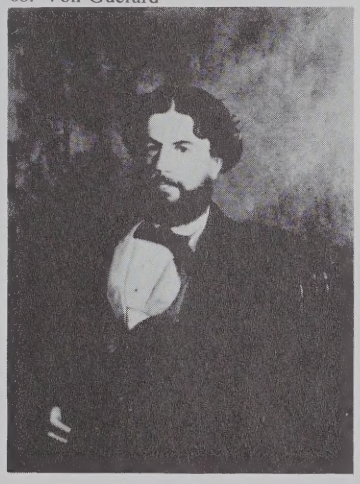
59. Roberts

61. Russell

63. Smith

65. Stuart

68. Von Guerard



70. Webb

61. John Peter RUSSELL (Australian, 1859–1930). *Archway, Salerno.* Watercolor, 30.5 × 23.8 cm. Signed l/l. Rounded archway, flanked with round pilasters. A woman with parasol stands beside the right pilaster. Part of a window with open shutters is seen directly above the archway.
☆79.19.61. Melbourne, Australia. 1 Jan 79

62. ———. *Fishing Boats Goulphar*, 1900. Oil on canvas, 55.2 × 64.8 cm. Signed l/l. Ref: Thomas. Vibrantly colored seascape with four small sailboats with orange sails in the foreground before a cliff. Paint is applied in short strokes of orange, red, green, and purple.
☆79.19.7. Melbourne, Australia. 1 Jan 79

63. Eric SMITH (Australian, b 1919). *View of the Yarra.* Oil on canvas, 45 × 60 cm. Boats docked against a quay. Building and trees in the background. Forms outlined in square, dark strokes.
☆79.19.76. Melbourne, Australia. 1 Jan 79

64. Peter Purves SMITH (Australian, fl 1930–40). *Surrealist Landscape.* Oil on canvas, 50 × 36 cm.
79.19.72. Melbourne, Australia. 1 Jan 79

65. Cumbrae STUART (Australian, 19th c). *Nude Child.* Pastel, 60 × 49.5 cm. Nude child with short, dark hair, seen in profile, seated on striped cloth. Right leg is crossed over left foot. Right arm rests at side, hand touching cloth. Part of an arched doorway or window at right.
☆79.19.56. Melbourne, Australia. 1 Jan 79

66. William SWAINSON (Australian). *Pendent Willow.* Pencil, 22 × 61 cm.
79.19.65. Melbourne, Australia. 1 Jan 79

67. J. A. TURNER (Australian, 1875–1900). *Drover with Sheep.* Oil on canvas, 19 × 38 cm.
79.19.44. Melbourne, Australia. 1 Jan 79

68. Att to Eugene VON GUERARD, Australian, 1811–1901). *Portrait of J. C. Ware.* Oil on canvas, 90 × 70 cm. Waist-length portrait of a bearded man, seated in a high-back Victorian chair. He is wearing a dark colored jacket, bow tie, and a vest of a lighter shade. His left hand is reaching into the right side of his vest. Right hand is clenched at his side.
☆79.19.2. Melbourne, Australia. 1 Jan 79

69. Douglas WATSON (Australian). *Woodsheds.* Oil on canvas, 34.5 × 44.5 cm.
79.19.48. Melbourne, Australia. 1 Jan 79

70. George WEBB (Australian). *Kangaroos by Stream.* Oil on canvas, 92.5 × 64 cm. Signed l/l. Lush, romantic landscape of tall full trees, with three small kangaroos grazing by a stream in the centerground.
☆79.19.62. Melbourne, Australia. 1 Jan 79

71. James WIGLEY (Australian). *Aborigines.* Pencil, 46 × 61 cm.
79.19.92. Melbourne, Australia. 1 Jan 79

72. Fred WILLIAMS (Australian, b 1927). *Metropole.* Etching, 12 × 15 cm.
79.19.92. Melbourne, Australia. 1 Jan 79

DUTCH, 19th century

73. Eugene VERBOECKHOVEN (1798–1881). *A Family of Sheep.* Oil on cradled panel, 57.8 × 77.5 cm. Signed at right. Landscape with animals (a ewe, a ram, and a lamb) in a green and brown landscape—one grazing, facing left; two resting.
☆78.298. Dayton, Oh to Munich, Germany. 18–21 Dec 78

FRENCH, 20th century

74. Jacques LIPCHITZ (1891–1973). *Joy of Orpheus,* 1942. Tempera on pressed wood panel, 63.5 x 48.2 cm. Signed l/r and dated. Abstract figures, legs entertwined, against dark background. Figure on left playing lute.
☆72.25.2. New York, N.Y. 25 Jan 79

75. Jules PASCIN (1885–1930). *Deux nus.* Oil wash and charcoal on canvas, 61 x 46.4 cm. Signed l/r "J Pacsin." Sketch of two voluptuous female figures in a triangular composition; one standing, one on her knees behind.
☆79.25.4. New York, NY. 25 Jan 79

76. Louis VALTAT (1869–1952). *Les vagues,* 1909. Oil on canvas, 46.3 x 60.3 cm. Signed and dated. Surf with waves breaking in the foreground.
☆79.25.1. New York, NY. 25 Jan 79

ITALIAN, 15th century

77. Pseudo Pier Francesco Fiorentino (Florentine, 15th c). *Madonna of the Pomegranate,* 1444. Oil on wood, 66 x 45 cm. Ref: Bernard Berenson, Italian Pictures of the Renaissance, Florentine School. London, 1963, p 173. Madonna and child with infant Saint John the Baptist. Based on similar work by Fra Filippo Lippi formerly in Berlin Staatliche Museen (Berlin, 69). 79.21. Municipal Gallery, Gubbio, Italy. 18 Mar 79

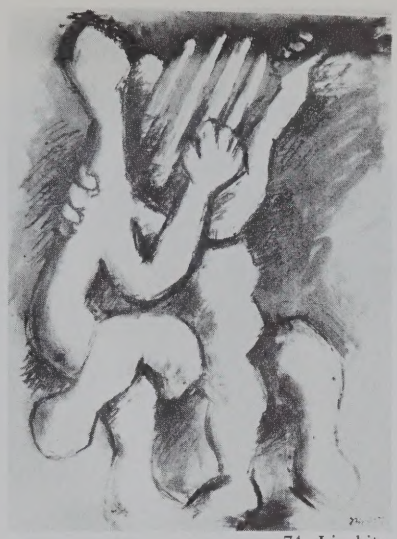
RUSSIAN, 20th century

78. Alexandra EXTER (1882–1949). *Figures on Beach,* ca 1927. Oil on canvas, 61 x 50 cm. Constructivist painting of a reclining female at l/l, a seated female at l/r, and an abstract sail-like form at u/r.
☆79.25.3 New York, NY. 25 Jan 79

SPANISH, 20th century

79. Att to Pablo PICASSO (1881–1973). *Dove.* 43 x 33 cm. Possibly an early work by Picasso. Dove resting, seen from side, with a group of still-life objects, including two feathers, in the foreground.
☆78,287.2. Madrid, Spain. 15 Nov 78

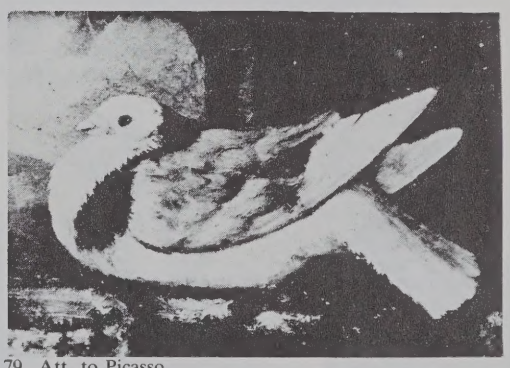
80. ———. *Male Figure.* 43 x 33 cm. Possibly an early work by Picasso. Bust-length view of a bearded, nude male model. Right arm extended, resting on a block of stone(?) at extreme right of picture.
☆78.287.1. Madrid, Spain. 15 Nov 78



74. Lipchitz

78. Exter

76. Valtat



79. Att. to Picasso

80. Att. to Picasso

SCULPTURE

ENGLISH, 19th century (?)

82. English(?), 19th century. *Statue of the Goddess Isis.* Alabaster and onyx, h approx 45.7 cm, wt 50–75 lb (20–35 kg). Acc no 57.56.12 possibly marked on base. Female figure nude to the waist, of carved alabaster, wearing a skirt of carved onyx. Figure leans slightly back against the figure of a sphinx, also of onyx. Granite base.
☆79.21.11. Salem, Or. 31 Mar 79

FRENCH, 20th century

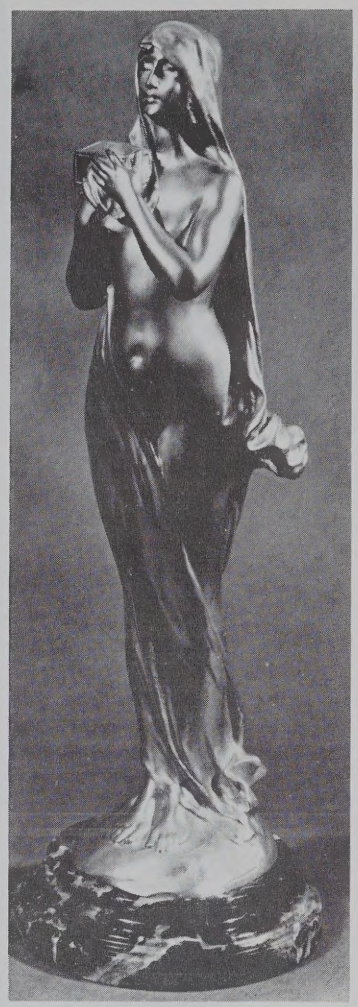
83. Maurice BOUVAL (Early 20th century). *The Secret.* Gilt bronze on veined marble base, h ca 33 cm. Signed on base at right "M. Bouval." Ill in Alistair Duncan, *Art Nouveau Sculpture.* New York, 1978, p 29. Female figure, nude, standing with a cloth draped over her head, flowing behind her back, and across her legs in front. Eyes closed, holding a box before her face.
☆78.292. New York, NY. 22 Dec 78

GERMAN, 15th century

84. "Slavonice Circle." (Bohemian, 15th c). *Church Father.* Polychrome wood. Standing figure, wearing a long robe and a beard, holding an open Bible in his left hand, right hand raised.
☆78.289.4. Slavonice, Czechoslovakia. 27–8 Aug 78

85. ———. *Last Supper.* Polychromed wood, 80 x 60 cm. High relief plaque. Christ and Disciples at table. Christ centered in upper portion, surrounded by disciples.
☆78.289.6. Slavonice, Czechoslovakia. 27–8 Aug 78

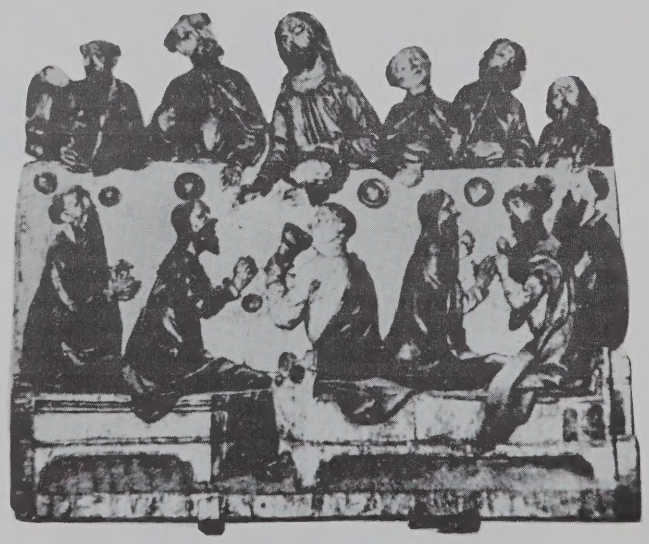
82. English, 19th c



83. Bouval

84. Bohemian, 15th c

85. Bohemian, 15th c



86. Bohemian, 15th c

86. ———. *Magdalen(?)* Polychromed wood, h 104 cm. Buxom standing female figure with thick hair falling over shoulders, wearing a long, full robe, with her hands folded in prayer.
☆78.289.2. Slavonice, Czechoslovakia. 27–8 Aug 78

87. ———. *Saint Adalbert.* Polychromed wood, h 100 cm. Saint in long robe wears episcopal insignia and mitre. He holds a long staff in left hand and Bible in right hand.
☆78.289.3. Slavonice, Czechoslovakia. 27–8 Aug 78

88. ———. *Pieta.* Polychromed wood, h 105 cm. Seated Virgin in red robe with gold border, holds body of Christ in her lap.
☆78.289.5. Slavonice, Czechoslovakia. 27–8 Aug 78

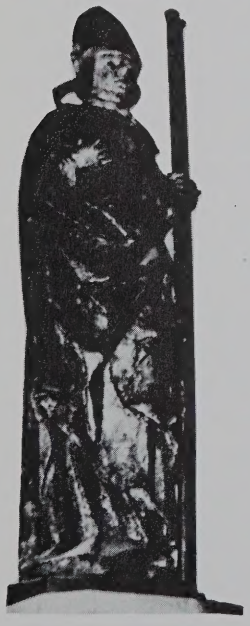
89. ———. *Virgin and Child.* Polychromed wood, h 126 cm (without crown). Standing Virgin wearing a bulb-shaped crown, decorated with acanthus leaves, with a small maltese cross on top. Her long robe is gathered over her left arm, which supports the Child. A white scarf is draped over the Virgin's neck and shoulders.
☆78.289.1. Slavonice, Czechoslovakia. 27–8 Aug 78

GREEK, 4th century BC

90. *Relief Head.* Marble, h 16.2 cm. Shallow relief head of a man in left profile, part of right eye barely visible. Aquiline nose, narrow mouth, blank eyes, smooth hair held by a simple band.
79.27. Frankfurt, Germany. 16 Mar 79

90. Greek, 4th c BC

87. Bohemian, 15th c



88. Bohemian, 15th c

89. Bohemian, 15th c

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BULLETIN

Petrides Convicted

Paul Petrides, a prominent Paris art dealer, and author of the three-volume catalogue raisonné on Utrillo, has been sentenced to three years in prison and fined more than $500,000 for dealing in stolen paintings.

"L'Affaire Petrides" began in 1973, when Petrides was found to be in possession of fifteen paintings stolen from the Paris collector Albert Lespinasse in 1972, and to have already sold six of these works. Petrides had bought the collection from Marc Francelet, a young photographer. He maintained that he had been an innocent purchaser.

Since that time, Petrides' level of personal involvement in the theft and fencing operation has been the subject of a lengthy investigation, leading to Petrides' indictment and conviction. Petrides maintained throughout the case that he had purchased the paintings innocently, and at full market value, but Francelet eventually told authorities that Petrides had knowingly acquired from him another stolen work—in this case a Utrillo—which Petrides sold to a Japanese collector. Francelet alleged that Petrides had also been aware that the Lespinasse paintings were stolen.

An examination of Petrides' purchase record book, which French dealers are required to keep, revealed that the dates entered for transactions with Francelet were incorrect. Handwriting experts testified that the ledger was executed in a single handwriting and in the same ink, thus was probably all copied at one time, and had been falsified.

Under French law, a bona fide purchaser may acquire title to a stolen work within three years after a theft, if he buys from an established merchant or in an open market place, such as an auction or flea market. Since this law supports the buyer, rather than the former owner, there are strict laws regulating merchants. This legal situation accounts for the lengthy criminal prosecution of this case.

The anomaly of the case is that it involves the world's foremost authority on works by Utrillo, who went so far as to sell a stolen work by Utrillo, of whose provenance he could not have been ignorant. Petrides appears to have expected his wealth and stature to protect him. He argued that a man in his position (a septuagenarian millionaire with a flourishing business) would have no interest in illicit dealing.

It is a triumph for both the French dealer control laws and the legitimate art trade that these arguments were disproved.

McClain Appeal Decided

An equally prolonged U.S. case, involving five dealers who were convicted of dealing in smuggling pre-Columbian objects, has been decided, but legal commentators feel that the essential questions in the case are unresolved.

Patty McClain *et al.* were arrested in 1975 for possession of smuggled pre-Columbian ceramics, which Mexican authorities alleged were stolen, simply by virtue of their illegal export. The dealers were convicted of grand theft and conspiracy, but this decision was reversed on appeal. They were retried and reconvicted in 1977, and their appeal of the conviction has been pending.

Now, the appeal has been decided. The theft conviction has been reversed, but the conspiracy charges were upheld, meaning that at least one of the dealers will probably go to jail.

The determination of this case has revolved around a close interpretation of Mexican law. Since 1972, all Mexican antiquities are national property. No export is permitted, except for temporary exhibition purposes. Illegal export constitutes theft from the State. Mexican officials testified in the McClain case that this legal interpretation had been effective since before 1900, and a parade of witnesses examined Mexican and U.S. law.

In the appeal, it was decided that prior to 1972, Mexican law was too unspecific to control export of all moveable antiquities. It could not be determined when the antiquities seized from the McClain case defendants in 1975 were imported, and thus the dealers were acquitted on the theft charges. However, evidence was introduced in the retrial to indicate that the five dealers had conspired since 1972 to continue their smuggling trade, in full knowledge that this was considered by Mexico to be theft. They were thus convicted of conspiracy.

The Mexican cultural property statute is unusually strict, and many American museum professionals and dealers question whether it is appropriate for Mexico to be able to prosecute this broad statute in American courts. Carried to its logical conclusion, it means that all antiquities imported from Mexico since 1972 are stolen, and that a museum could commit a Federal crime by transporting such antiquities across state lines.

The art world had hoped for a thoroughgoing scrutinization of this question by the appellate court. But it appears that the validity of the former ruling was not really considered. The court fulfilled its purposes of convicting offenders who seemed guilty of a conspiracy to violate the law, and left the important central issue untouched.

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